



U.S. Department of Justice

United States Attorney
Eastern District of New York

DMP/JMH
F. #2014R01413

271 Cadman Plaza East
Brooklyn, New York 11201

FILED

IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

AUG 19 2019

August 16, 2019

BROOKLYN OFFICE

By ECF

The Honorable William F. Kuntz, II
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Azizjon Rakhmatov
Criminal Docket No. 15-95 (WFK)

Dear Judge Kuntz:

Consistent with Your Honor's instructions at the change of plea proceeding held yesterday for the above-referenced defendant, the government respectfully moves that the defense motions identified below be dismissed as moot:

- ECF Doc. 321: Two classified motions (Motion for Discovery and Motion for Declassification Pursuant to Section 5 of the Classified Information Procedures Act), filed on June 19, 2019;
- ECF Doc. 322: Motion to Dismiss Count Three of the Indictment, filed on June 24, 2019;
- ECF Doc. 324: Motion to Suppress Statements and iPhone, filed on June 25, 2019;
- ECF Doc. 327: Motion to Vacate the Protective Order, filed on June 28, 2019;
- ECF Doc. 333: Letter Objecting to the Admission in Evidence of Kasimov's Statements, filed June 29, 2019;
- ECF Doc. 342: Supplemental Motion to Dismiss Count Three of the Indictment, filed July 31, 2019; and

- ECF Docs. 344 & 345: Motion to Suppress Pen Register, Trap and Trace, Cell Site Information, Telecommunications Records and All Other Data and Information from Rakhmatov's Phones, filed August 1, 2019.¹

The above-referenced motions are waived by the terms of the defendant's plea agreement. See Court Exhibit 2, ¶ 5; see also Class v. United States, ___ U.S. ___, 138 S. Ct. 798, 805 (2018) (summarizing caselaw on waiver of claims via plea, including but not limited to trial rights, challenges to the admissibility of evidence, and any claim that contradicts admissions made to enter the plea, among other bases).

The defendant, by counsel, has indicated to the government that he is reviewing the issue and intends to file his response to this motion, if any, by Wednesday, August 21, 2019.

For the foregoing reasons, the government respectfully requests that the Court dismiss the above-referenced defense motions as moot.

Respectfully submitted,

RICHARD P. DONOGHUE
United States Attorney

By: /s/ J. Matthew Haggans
J. Matthew Haggans
Assistant U.S. Attorney
(718) 254-6127

cc: Clerk of Court (WFK) (By ECF)
Lawrence Stern, Esq. (By ECF)

The application is granted,
SO ORDERED ~~denied~~
s/WFK

~~William F. Kuntz, U.S.D.J.~~
Dated: ~~Aug 19, 2019~~
Brooklyn, New York

¹ The government notes that defendant Rakhmatov also filed two additional motions in which defendant Dilkhayot Kasimov joined. These two motions are: (a) Rakhmatov's Motion to Dismiss Counts One and Two of the Indictment, filed on June 27, 2019 (ECF Doc. No. 326); and (b) Rakhmatov's classified Motion for Discovery and Suppression of Electronic Surveillance and Physical Searches Conducted Pursuant to the Foreign Intelligence Surveillance Act and All Evidence and Information Derived Therefrom, filed with the Court Information Security Officer on July 9, 2019. Those motions remain pending as to Kasimov. The government filed its oppositions to those motions on Friday, August 16, 2019. See ECF Doc. Nos. 361 and 362.